


POLICY AND PROCEDURE

<u>POLICY TITLE:</u> Representative Payee	<u>POLICY #:</u> DSAMH027
<u>PREPARED BY:</u>	<u>DATE ISSUED:</u>
<u>RELATING POLICIES:</u>	<u>REFERENCE:</u>
<u>DATES REVIEWED:</u> 6/23/21	<u>DATES REVISED:</u>
<u>APPROVED BY:</u>  <small>DocuSigned by: Gregory Valentine, Associate Deputy Director, P (40740) 3E745DFA4F3F411...</small>	<u>NOTES:</u> <input type="checkbox"/> DSAMH Internal Policy <input checked="" type="checkbox"/> DSAMH Operated Program <input checked="" type="checkbox"/> DSAMH State Providers <input type="checkbox"/> Delaware Psychiatric Center <input checked="" type="checkbox"/> Targeted Use Policy (Defined in scope)

- I. PURPOSE:** To establish a policy that addresses beneficiary choice of representative payee, in addition to providing guidelines for organizations providing representative payee services. This includes collaboration between the representative payee organization and behavioral health providers, guidelines for the discontinuation of representative payeeship, and closing accounts of discharged or deceased beneficiaries. This policy does not eliminate other federal, state, or regulatory requirements required for specific programs and services.
- II. POLICY STATEMENT:** Applies to all beneficiaries aged 18 or older who receive DSAMH services (hospital and community based) who are incapable of managing their own funds and need a representative payee; all DSAMH certified providers who provide care to program beneficiaries who need a representative payee; behavioral health providers who provide treatment and care to program beneficiaries who need a representative payee; organizations that act as representative payee; and DSAMH.

III. DEFINITIONS:

Applicable program – Programs and services contracted by the Divisions of Substance Abuse and Mental Health. Policy applies to subcontractors, where applicable, as well.

Beneficiary – For the purposes of this policy, adults who seek or receive mental health and substance use disorder services, or behavioral health supports, funded or regulated by DSAMH.

Collective Accounts – When the representative payee places funds for more than one beneficiary in a single checking or savings account, it is referred to as a "collective account."

DSAMH: Delaware Division of Substance Abuse and Mental Health.

Incapable – Means lacking the ability to manage one's own financial affairs; unable to provide regularly for his/her housing, food, and other necessities, and cannot direct others to do so for himself/herself (e.g., does not pay rent regularly, gets evicted).

Representative Payee – An individual or organization that receives payments from various funding sources for someone who is incapable of managing or directing someone else to manage his/her financial affairs. In this policy, the representative payee is an organization.

SAMHSA – The U.S. Substance Abuse and Mental Health Services Administration.

Social Security Administration (SSA) – The organization that administers financial benefits to persons who meet criteria for disability; a distinction is made between beneficiaries who have limited work history (recipients of SSI benefits) and those who have a substantial work history (recipients of SSDI benefits). (Authority. Social Security Act of 1935 and Division of Substance Abuse and Mental Health Services (DSAMH) 16 Del. Admin. Code § 13000-13730).

Social Security Disability Income (SSDI) – A federal income maintenance program administered by the Social Security Administration that protects workers and their families from loss of earnings because of retirement, death, or disability.

Supplemental Security Income (SSI) – A federal income maintenance program administered by the Social Security Administration for aged, blind, and disabled persons with little or no income or resources.

IV. SCOPE: Limited to DSAMH-contracted providers who meet the representative payee criteria and are working with clients aged 18 or older with a behavioral health diagnosis. Any DSAMH provider that holds a contract, if providing representative payee services, must meet the requirements within this policy.

V. PROCEDURES/RESPONSIBILITIES:

A. Policy: It is the policy of DSAMH that:

- i. Beneficiaries' funds are handled in accordance with federal and local governing financial and accounting guidelines and practices, and consistent with Social Security Administration (SSA) guidelines for developing a representative payee accounting system.
- ii. Beneficiaries have easy access to their available funds, account information, education to assist them in developing skills to become as independent as possible and have the least restrictive Ninety-Day (90 day) Budget and Spending Plan.
- iii. All beneficiaries who are determined by their treatment team (with acceptance from SSA) to be incapable of managing their own funds will be given choice of representative payee regardless of the funding source of their income. It is the position of the DSAMH that all beneficiaries are able to handle their own funds unless there is compelling evidence to the contrary.
- iv. SSA Guide for Organizational Representative Payees be used to govern SSI/SSDI accounts, and that it also be used as a guide, to the extent feasible, in managing other types of beneficiary accounts when no other governing guidelines exist. Updates are located in this web link: <http://www.ssa.gov/payee/>

- B. **Background:** DSAMH does not act as representative payee for beneficiaries in the community. If the beneficiary's behavioral health provider is also the representative payee, there must be established policies and procedures for appropriate and distinct separation of representative payee functions from those of the provider services. This to assure that there is no potential for, or appearance of, impropriety in the handling of beneficiary funds. The provider who also assumes representative payee services for the beneficiary must create a firewall between the representative payee actions and the behavioral health services. The provider must have policies and procedures to assure the provider is completely acting in the best interests of the beneficiary. DSAMH reserves the right to determine if there needs to be additional policy and procedural protections regarding the beneficiary's funds and the service provider also functioning as the representative payee.
- i. The intent of DSAMH is to promote an efficient process and procedure that provides the beneficiary with more timely, efficient, and convenient access to his/her funds which have not been expended for the beneficiary's other necessary services.
 - ii. Providers that have a representative payee contract with DSAMH will use commercial banks and automated banking systems (or other appropriate systems approved by DSAMH) for the convenience of beneficiaries. Cash withdrawal limits will be set in accordance with the beneficiaries' Ninety-Day Budget and Spending Plan developed during individual recovery planning.
- C. **Responsibilities and Procedures:**
- i. Behavioral Health Authority: DSAMH, as the Behavioral Health Single State Authority, shall:
 - 1. Contract directly with an organization(s) to serve as the representative payee for DSAMH beneficiaries.
 - 2. Prefer that the representative payee organization is not a currently contracted provider for the same clientele that may need to utilize representative payee services. Organizations with an existing DSAMH relationship (licensure, certification, contracts, etc.) must provide in detail how the organization will maintain an ethical wall that ensures the representative payee service is separate and independent of their existing services. The provider must also detail how the client is informed of this separation of services and the "firewall" between the Representative Payee Service and the organization's other services.
 - 3. Monitor representative payee services to ensure beneficiary accounts are being managed in accordance with contract provisions and this policy. DSAMH reserves the right to audit any representative payee who is providing services through contract with DSAMH.
 - ii. Representative Payee: shall adhere with scope of services per contract and the following:
 - 1. Arrange a face-to-face meeting with each beneficiary to explain the role and responsibilities of the representative payee, related rights, and responsibilities of the beneficiary, and to discuss the Ninety-Day Budget and Spending Plan, etc. All contact with the beneficiary and provider must be documented.
 - 2. Collaborate closely with the clinical team to provide education to beneficiaries in developing money management skills that lead to independent money management and self-sufficiency. The representative payee organization should be committed to

working with beneficiaries to either gain or re-gain control of his/her own finances. These financial and independent money management trainings should be part of the beneficiary's care plan and reported to DSAMH as requested.

3. Provide general money management education to beneficiaries, families, and behavioral health provider staff at least annually.
4. Serve as liaison and advocate between the beneficiary and their funding source (e.g., Social Security Administration, Veterans, etc.).
5. Establish an interest-bearing, direct deposit, checking or savings bank account in accordance with SSA guidelines and serve as liaison between the beneficiary and the commercial banking institution that manages the beneficiary's funds.
6. Title bank accounts to show the beneficiary as the owner in accordance with SSA guidelines.
7. Educate and advise the beneficiary about the account (e.g., what type, how to access information), use of ATMs, SSI, electronic payment systems and other funding sources, etc.
8. Perform the functions required of a representative payee as outlined in the Social Security Representative Payment Program (e.g., determining continuing eligibility for benefits), and in accordance with this policy and DSAMH contract provisions.
9. Collaborate and coordinate with the clinical team and the funding source to expedite exchange of needed information to facilitate an efficient, seamless process.
10. Provide monthly statements to the beneficiary and, at the beneficiary's request/approval, to the behavioral health provider's clinical team of the beneficiary's account activity, account balance, and maintain a record of same for three (3) years. Also provide account balance statements to the beneficiary upon beneficiary request.
11. Notify the beneficiary and the clinical team when the beneficiary's account is in jeopardy (e.g., the balance in the beneficiary's account is either over the SSA cash allowance limit or too low to meet the beneficiary's support needs).
12. Provide an annual report of each beneficiary's account as required by SSA (or other funding sources, if applicable). Beneficiaries may get a copy of the report upon request and may request that a copy be given to the clinical team.
13. Ensure that each beneficiary's regularly scheduled bills are paid directly to the respective landlord/vendor unless the Ninety-Day Budget and Spending Plan specify other arrangements.
14. Ensure that funds of DSAMH beneficiaries are kept separate from agency accounts for other clients of the representative payee.
15. Maintain SSA funds in either an individual or "collective account," separate and exclusive from other funds, and not co-mingled with operating funds. The representative payee must meet SSA conditions for establishing and maintaining a collective account, including having clear records showing the amount of each beneficiary's share in the account.
16. Record that all the beneficiary's documented needs and wishes are consistent with the Ninety-Day Budget and Spending Plan.

17. Provide a monthly summary report to the designated DSAMH official indicating name of each beneficiary and each service provided to them during that month (intakes, education, burial fund activity, paid bills, liaison activities, etc.).
18. Establish an irrevocable end-of-life fund in a separate, exclusive account if the beneficiary makes a written request and identifies money that he/she wishes to place in an end-of-life fund (up to the cash amount allowed by SSA for those recipients).
19. Handle discharged or deceased beneficiary accounts in accordance with Section 5 below.

iii. Behavioral Health Providers: Behavioral health providers shall:

1. Determine and document if a beneficiary is incapable of managing his/her own funds and needs a representative payee.
2. If incapability is demonstrated, submit an SSA-787, Physician's/Medical Officer's Statement of Patient's Capability to Manage Benefits, signed by the treating psychiatrist to SSA for persons receiving funds from SSA, for approval by SSA.
3. Provide general information on representative payee services and share a listing of the representative payee providers, inclusive of those contracted with DSAMH, with the beneficiary. The beneficiary and/or family may also select an individual representative payee who satisfies the SSA requirement. SSA provides final appointment of representative payees.
4. Assist the beneficiary in keeping the appointment with SSA (or other funding source) to finalize the choice of representative payee.
5. Contact the representative payee organization chosen by the beneficiary by phone or email, then forward the written referral on the form provided by the provider.
6. Inform and offer choice, change, and discontinuation of representative payee relationship to beneficiaries at four points of service: (1) upon incapability determination from SSA, (2) during service planning, (3) during discharge planning, and (4) upon beneficiary/guardian complaint of dissatisfaction with current representative payee services.
7. Give the beneficiary the right to change representative payee whenever he/she desires, limited only by SSA guidelines/approval.
8. Document the beneficiary's choice, change, or discontinuation of representative payee-relationship, and file the original document in the beneficiary's clinical record.
9. At least annually, re-evaluate and document whether each beneficiary still needs a representative payee, while working with the beneficiary towards his or her highest level of independence.
10. Document all matters regarding representative payee in the beneficiary's record.
11. Collaborate with the representative payee and the funding source as needed to expedite exchange of needed information to facilitate an efficient process.
12. Notify the representative payee, in writing, within five (5) business days when a beneficiary is discharged or dies (see Section 5 below).
13. Develop policies that address, but are not limited to, the following:
 - a. requirement that the clinical team be trained and familiar with their roles and the role of the representative payee;

- b. training that will be provided on representative payeeship and SSA guidelines;
- c. interaction/collaboration between the behavioral health provider and the representative payee to accomplish the beneficiary's choice and other required actions;
- d. process for providing the beneficiary information on representative payee services and for offering the beneficiary choice, change or discontinuation of representative payee services;
- e. clinical record documentation;
- f. notifications to representative payee on changes in beneficiary status that impact SSI or other benefits (including re-hospitalization, incarceration, family circumstances, living arrangements, beneficiary employment, missing person, other income sources, etc.);
- g. assistance that will be provided to the beneficiary, when needed, in completing certain required reporting documents, e.g., continuing disability reviews, work related reports;
- h. collaboration between the behavioral health provider and representative payee to expedite exchange of needed information such as copies of medical record material consistent with release of behavioral health information guidelines, including time frames for response; and
- i. specific actions and steps required by the clinical team to ensure that coordination with the representative payee is a seamless process, such as establishing the beneficiaries' Ninety-Day Budget and Spending Plans and discharge planning.

D. Discontinuing Representative Payeeship: Representative payeeship can end:

- i. When the clinical team and beneficiary agree (during service planning, during annual re-evaluation, or at other times when the beneficiary's situation changes) that the beneficiary can direct his/her financial matters, with or without assistance, and can end the representative payeeship.
- ii. When the beneficiary requests the representative payee to conduct a review to end representative payeeship, and the representative payee organization (based on the beneficiary's progressive responsibility in handling expenditures and face-to-face interview with the beneficiary) recommends cessation of representative payeeship to the clinical team. For beneficiaries who demonstrate capability, the representative payee can also initiate the recommendation to the clinical team to end representative payee services.
 - 1. In each case above when there is agreement to end the services and SSA is the funding source, the clinical team shall complete an SSA-787 and inform the beneficiary that he/she must contact SSA for an appointment to present the SSA-787 for SSA acceptance of the determination that the beneficiary can manage his/her own funds.
 - 2. When SSA has accepted the determination, the clinical team will notify the representative payee of SSA acceptance. The clinical team shall collaborate with the representative payee, as needed, and implement a plan to begin the beneficiary's independent money management.

3. The representative payee shall promptly send a formal cessation letter to SSA or other applicable funding source stating that based on the determination, they are no longer representing the beneficiary as representative payee.
 - iii. If the representative payee seeks to terminate the representative payeeship for the beneficiary due to various reasons (e.g., beneficiary will not comply with Ninety-Day Budget and Spending Plan), the representative payee must provide a sixty (60) day notice to the beneficiary before notifying SSA. The representative payee must continue services until a new representative payee is established and transfer all account history to any successor representative payee.
- E. **Closing Accounts of Discharged or Deceased Beneficiaries:** Accounts shall be handled consistent with applicable governing guidelines (SSA for SSI/SSDI accounts, etc.) and the procedures below. Where no specific governing guidelines exist from the funding source, the SSA guidelines shall be used as a guide for all types of accounts.
- i. Discharged Beneficiaries:
 1. Provision of representative payee services through DSAMH shall be discontinued upon a beneficiary's discharge from the DSAMH system of care.
 2. During discharge planning, the behavioral health provider shall offer the beneficiary choice on how the beneficiary wants his/her account to be handled after discharge. The beneficiary shall be offered opportunity to:
 - a. Manage the account personally, if determined capable by the clinical team, or direct someone else to do so; or
 - b. Continue services with the same representative payee if the beneficiary is still capable of managing funds; or
 - c. Choose another representative payee (If a beneficiary chooses either (b) or (c) above, this is a personal arrangement and is not paid by DSAMH. Approval from SSA must be obtained for any choice made as required/applicable.)
 3. The behavioral health provider shall inform the representative payee, in writing, of the beneficiary's choice and the representative payee shall inform SSA or other funding source. The behavioral health provider shall provide the beneficiary assistance as necessary by working with the representative payee to meet the beneficiary's wishes.
 - ii. Deceased Beneficiaries:
 1. The behavioral health provider shall:
 - a. Notify the representative payee in writing of the date and time of the beneficiary's death, including whether next of kin has been notified.
 2. The representative payee shall:
 - a. Notify the beneficiary's account beneficiary in writing, informing them of the existence of a burial fund, where applicable, and of any other financial assistance known to be available.
 - b. Release the burial funds to the funeral home or other responsible party for payment of the funeral bill if the beneficiary has established a burial fund. If the beneficiary

does not have a burial fund, refer the beneficiary's family to the state's appropriate Burial Assistance Program for assistance.

- c. Notify the SSA or other funding source of the beneficiary's death immediately.
- d. Upon request, generate a final report of the last sixty (60) days of account activity including balance at close out, and send a copy of the final report to the account beneficiary and to the behavioral health provider of record if the beneficiary so requests.
- e. Notify the banking institution to freeze the beneficiary's funds at the time of death in accordance with local law and SSA guidelines.
 - i. Return any funds to which the beneficiary is not entitled to SSA or other funding source.
 - ii. Notify the beneficiary of any other funds of the deceased beneficiary that remain unclaimed. If the funds are still not claimed after two (2) years, and the beneficiary does not claim the remaining funds within sixty (60) days from notification, the representative payee shall report unclaimed funds in accordance with instructions issued by the State of Delaware Unclaimed Property Unit and forward a copy of the report to the responsible behavioral health provider and the designated official at DSAMH.

F. **Inquiries.** Questions regarding this policy should be addressed to the DSAMH's Bureau Chief of Policy and Compliance.

VI. **Policy Lifespan:** This policy is reviewed annually.

VII. **References/Resources:**